

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.411 OF 1997

The Commissioner of Income Tax
Pune .. Applicant.

V/s.

Indapur Sahakari Sakhar
Karkhana Ltd. Pune .. Respondent.

Mr.A.S. Rao with Mr.Pankaj Kapoor for the applicant.

Mr.S.N. Inamdar with Mr.P. Vaidya for the respondent.

**CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.**

DATED : 12TH APRIL, 2005.

P.C. :

1. Heard the learned counsel for the applicant.
The Tribunal has referred following questions for the
opinion of this Court, reading as under :

1. Whether on the facts and in the circumstances of the case, the Tribunal was right in justified in law in following the decision of the Special Bench, ITAT, Pune in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 AT) and in deleting the addition of non-refundable deposits of rs.92,77,002/- ?

2. Whether on the facts and in the circumstances of the case, the Tribunal was right and justified in law in deleting the above issue by following the decision of Spl. Bench, ITAT, Pune in the case of Shri Chhatrapati SSK Ltd. (198 ITR 78 AT) when in fact the Tribunal has drawn the statement of the case in the case of Shri Chhatrapati SSK Ltd. u/s.256 (1) of the IT Act for reference to High Court, Mumbai ?

2. In so far as both the questions are concerned, the issues are covered by the decision of the Apex Court in the case of **Siddheshwar S.S.K. Ltd. V/s. CIT [(2004) 270 ITR 1 (SC)]** in favour of the assessee and against the revenue.

3. The reference is disposed of in the above terms with no order as to costs.

(V.C. DAGA, J.)

(J.P. DEVADHAR, J.)